

PATENT

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I hereby certify that this correspondence is being sent via facsimile
to Examiner Mary Lynn Theisen, Group Art Unit 1732, Fax No.
703-872-9306, addressed to Mail Stop Appeal Brief - Patents,
Commissioner For Patents, P. O. Box 1450, Alexandria, VA 22313-1450
on June 21, 2004
Wayne L. Jacobs Reg. 35,553 Date

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Serial Number: 09/878,743
Filed: June 11, 2001
Group Art Unit: 1732
Examiner: Mary Lynn F. Theisen
Applicant: John Linville, Donald R. Maier and Patrick M. Saaf
Title: CASKET LID AND METHOD OF MAKING SAME

OFFICIAL

Cincinnati, Ohio 45202

June 21, 2004

Mail Stop Appeal Brief - Patents
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Sir:

REPLY BRIEF

In the Response to Argument section of the Examiner's Answer, the Examiner maintains that Edwards discloses a casket lid molded as a one-piece unitary structure and Elder discloses the claimed lid shape. The Examiner then concludes that a person of ordinary skill would be motivated to change the shape of the lid to the known lid shape of Elder "because Edwards provides reason to change the mold shape." Appellants find absolutely nothing in Edwards which would suggest, provide motivation for, or even remotely hint at, changing the mold shape of Edwards to arrive at the claimed molded

casket lid of Appellants' invention. As was pointed out in Appellants' Appeal Brief, Edwards really does not disclose a specific shape of molded cover, much less suggest that that shape could be changed to some other shape. And Elder certainly does not teach that its lid could be molded. In the absence of at least some evidence, it is simply not seen how the combination of Edwards and Elder is proper. The Examiner has engaged in classic hindsight.

The Examiner states that the ordinary skill in the art is not high and there is no objective evidence of non-obviousness. Appellants respectfully suggest that the passage of nearly 80 years from the time of the Edwards invention and Appellants' invention is strong evidence of non-obviousness; in other words, if Appellants claimed molded casket lid was obvious surely there would be some disclosure thereof in the patent literature. However, there is not. Appellants were able to fabricate a three-dimensional casket lid molded as a one-piece, unitary structure having the structural elements of independent claims 21 and 35. To the best of Appellants' knowledge, no one else succeeded in doing so before them. The claimed invention eliminates a number of manufacturing steps, and in doing so reduces the cost associated with fabricating casket lids. For the Examiner to ignore these advantages, and ignore the fact that the problem solved by this invention went unsolved for nearly 80 years, is to simply ignore the "objective evidence of non-obviousness" of record.

For the foregoing reasons, it is submitted that the §103(a) rejections are in error. Reversal of the rejections is respectfully requested.

Respectfully submitted,

WOOD, HERRON & EVANS

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